TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
TX Health Fort Worth

Respondent Name
West American Insurance CO

MFDR Tracking Number
M4-17-2677-01

Carrier's Austin Representative
Box Number 01

MFDR Date Received
May 12, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "HRA has been hired by Texas Health of Fort Worth to audit their Workers Compensation claims. We have found in this audit they have not paid what we determine is the correct amount for this Inpatient surgery per the Texas fee schedule in effect as of 2008.

Per the applicable Texas fee schedule the correct allowable would be per the DRG 853. The allowable for this DRG per the Medicare is $173,173.24, we have also attached the print out for your review from the Medicare price program. The correct allowable would be at 143%, making the allowable at $247,637.73. Based on their payment of $229,438.26, there is an additional allowance of $18,199.47 still due at this time … We respectfully ask that you reprocess this claim for the correct allowable per the DRG @ 143% of Medicare allowable."

Amount in Dispute: $18,199.47

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please see the attached calculation, the carrier maintains that payment has been made pursuant to DRG 853 based upon:

134.404. Hospital Facility Fee Guideline-Inpatient. (F)(1) A,B … DRG 853 $160,447.09 * 143% = $229.439.33."

Response Submitted by: Coventry

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 13, 2016 through July 01, 2016	Inpatient Hospital Services	$18,199.47	$18,199.47

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.404 sets out the acute care hospital fee guideline for inpatient services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 94 – Processed in Excess of charges
   - P12 – Workers' compensation jurisdictional fee schedule adjustment
   - 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
   - W3 – Request for reconsideration
   - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly

Issues

1. What is the applicable rule for determining reimbursement of the disputed services?
2. What is the recommended payment for the services in dispute?
3. Is the requestor entitled to additional reimbursement?

Findings

1. This dispute relates to facility medical services provided in an inpatient acute care hospital. No documentation was found to support that the services are subject to a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011. Reimbursement is therefore subject to the provisions of 28 Texas Administrative Code §134.404(f), which states that:

   > The reimbursement calculation used for establishing the MAR [maximum allowable reimbursement] shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
   >
   > (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
   >
   > (A) 143 percent; unless
   >
   > (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent.

   The division establishes the total Medicare facility specific amount in this case using the *Medicare Inpatient PPS PC Pricer* as a tool. The *Medicare Inpatient PPS Pricer* efficiently identifies facility specific payment factors and adjustment. The pricer is found at www.cms.gov.

   The following illustrates the division's calculation of the total Medicare facility specific amount:

TOT DRG AMT:	Add back VBP CR *(not applicable due to conflict with Texas Labor Code)*	Add Cost Outlier *(applicable)*	Total Medicare Facility Specific Amount
$173,092.41	+ $80.83	+ $0.00	$173,173.24

   Note that a claim reduction identified as "VBP CR" on the *Medicare Inpatient PPS Pricer* was added back into the total DRG amount for this admission. "VBP CR" stands for Value-Based Purchasing (VBP) claim reduction (CR) which in Medicare is used to fund the Medicare VPB program. Medicare's VBP program was implemented to monitor and improve quality of care provided at inpatient hospitals participating in the Medicare system. Consequently, the Medicare VBP program conflicts with existing Texas Labor Code (TLC) sections 413.0511 and 413.0512 which provide for the review and monitoring of the quality of health care provided in

the Texas workers' compensation system. The fee rule for inpatient hospital services contains a conflict provision which explains that the Texas Labor Code in such instances takes precedence:

28 TAC §134.404 (d)(1) Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by the CMS in administering the Medicare program.

For this reason, the VBP CR amount does not apply. The VBP claim reduction amount was therefore added back in because it does not apply to inpatient hospital services provided in the Texas Workers' Compensation system.

No documentation was found to support that the facility requested separate reimbursement for implantables; for that reason, the MAR is calculated according to §134.404(f)(1)(A).

2. Per §134.404(f)(1)(A), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment by 143%. Information regarding the calculation of Medicare IPPS payment rates may be found at http://www.cms.gov. Review of the submitted documentation finds that the DRG code assigned to the services in dispute is 853. The services were provided at Texas Health Fort Worth. Based on the submitted DRG code, the service location, and bill-specific information, the Medicare facility specific amount is $173,173.24. This amount multiplied by 143% results in a MAR of $247,637.73.
3. The total allowable reimbursement for the services in dispute is $247,637.73. The amount previously paid by the insurance carrier is $229,438.26. The requestor is seeking additional reimbursement in the amount of $18,199.47. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $18,199.47.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $18,199.47 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		6/9/2017
Signature	Medical Fee Dispute Resolution Officer	Date
		6/9/2017
Signature	Medical Fee Dispute Resolution Director	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.